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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/730,744
Filing Date: December 08, 2003
Appellant(s): WESSON, BRUCE

Seth M. Nehrbass
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 19, 2007 appealing from the Office action mailed December 18, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,929,568	Eggers	7-1999
6,371,636	Wesson	4-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

a. Claims 39-54 stand rejected under 35 U.S.C. 102(b) as being anticipated by Eggers.

Re claims 39-43, Eggers discloses an LED bulb (i.e., LED circuit including LED light source) adaptable to an application with a load/resistance (i.e., compensation block(s) 20, 64, 57, 86, 89) to match impedance/resistance requirements of the application, the bulb including at least one LED (22, 24, 52, 54, 88, 90, ...) and a load (i.e., compensation block(s) 20, 64, 57, 86, 89); wherein the bulb is a replacement LED bulb with a load/resistance to match impedance/resistance of an AC/DC bulb (i.e., over wide range of input voltage or current) being replaced (Figs. 3, 4, 6, 8; Col. 1, lines 5-33; Col. 2, lines 8-19; Col. 6, lines 8-28).

Re claims 44-48, Eggers discloses an LED bulb (i.e., LED circuit including LED light source) adaptable to an application with built in or attachable load/resistance to match impedance/resistance requirements of the application, the bulb including at least one LED (22, 24, 52, 54, 88, 90, ...) and a load (i.e., compensation block(s) 20, 64, 57, 86, 89); wherein the bulb is a replacement LED bulb with a load/resistance to match impedance/resistance of an AC/DC bulb (i.e., over wide range of input voltage or current) being replaced (Figs. 3, 4, 6, 8; Col. 1, lines 5-33; Col. 2, lines 8-19; Col. 6, lines 8-28).

Re claims 49-54, Eggers discloses an apparatus comprising an LED bulb (i.e., LED circuit including LED light source) intended as a replacement bulb for a second bulb (i.e., incandescent bulb) and built in or attachable load/resistance to match, mimic, or approximate the impedance/resistance requirements for which the second bulb is used, the apparatus including at

least one LED (22, 24, 52, 54, 88, 90, ...) and a load (i.e., compensation block(s) 20, 64, 57, 86, 89) (Figs. 3, 4, 6, 8; Col. 1, lines 5-33; Col. 2, lines 8-19; Col. 6, lines 8-28).

b. Claims 49 and 56-59 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5, 9, 12, 14 and 16 of U.S. Patent No. 6,371,636 in view of Eggers.

Re claims 49, 56-59, '636 patent claims an LED bulb that is adapted for use in standard automotive bayonet type bulb sockets in a brake light mode and a tail light mode, and the bulb comprises limitations in a manner claimed in claims 56-59.

However, '636 patent does not discloses built in or attachable load/resistance to match, mimic, or approximate the impedance/resistance requirements as claimed in claim 49.

Eggers discloses an apparatus comprising an LED bulb (i.e., LED circuit including LED light source) intended as a replacement bulb for a second bulb (i.e., incandescent bulb) and built in or attachable load/resistance (i.e., compensation block(s) 20, 64, 57, 86, 89) to match, mimic, or approximate the impedance/resistance requirements for which the second bulb (i.e., incandescent bulb) is used, the apparatus including at least one LED (22, 24, 52, 54, 88, 90, ...) and a load (i.e., compensation block(s) 20, 64, 57, 86, 89) (Figs. 3, 4, 6, 8; Col. 1, lines 5-33; Col. 2, lines 8-19; Col. 6, lines 8-28).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Led light module of the issued patent '636 by providing a built in or attachable load/resistance (i.e., compensation block(s) 20, 64, 57, 86, 89) as taught by Eggers' for the purpose of matching the luminance to that of an incandescent bulb over a wide

range of input currents or voltages as taught by Eggers' to match, mimic, or approximate the impedance/resistance requirements for which the second bulb (i.e., incandescent bulb) is used.

(10) Response to Argument

Appellant's argue that Eggers does not claim an LED bulb or circuit to match the impedance/resistance requirement of an application, the bulb including at least one LED and a load" as required in claims 39-48 (see appellant's brief page 3, paragraph 1).

It is noted that claims 50, 52 and 54 are included in appellant's brief page 3, paragraph 1 in error because claims 50, 52 and 54 are dependent on claim 49. Therefore, the statement "Claims 39-48, 50, 52 and 54 are drawn ..." recited in appellant's brief page 3, paragraph 1 is understood to mean as "Claims 39-48 are drawn..."; and the statement "Claims 49, 51, 53 and 56-59 are drawn ..." recited in appellant's brief page 3, paragraph 2 is understood to mean as "Claims 49-59 are drawn..."

In response to Appellant's argument, it is respectfully submitted Eggers discloses a bulb (i.e., LED circuit (20, 57, 86, 89) including LEDs (22, 24, 52, 54, 88, 90)) (see Figs. 2-6 and 8). The disclosed bulb (i.e., LED circuit (20, 57, 86, 89) including LEDs (22, 24, 52, 54, 88, 90) is for a replacement of an incandescent bulb (see Figs. 2-6 and 8; Col. 6, lines 8-21). Therefore, Egger's LED circuit (20, 57, 86, 89) including LEDs (22, 24, 52, 54, 88, 90) is an LED bulb as required in the instant application. If it is not an LED bulb then it can not be used as a replacement for an incandescent bulb which contradicts the invention of Egger.

Furthermore, Eggers discloses the LED bulb or circuit (i.e., LED circuit including LED light source used as replacement for an incandescent bulb) to match the impedance/resistance requirement of an application as discussed above in paragraph 9a (in addition, see Eggers' Col.

6, lines 14-21). Therefore, the disclosed LED circuit including LED light source as disclosed by Egger is an LED bulb as claimed in the instant application because Egger clearly teaches since it is used as a replacement for an incandescent bulb.

Appellant's construe that it is extremely unlikely that Eggers circuit would match the resistance of the incandescent bulb if the circuit of Eggers' were used to replace incandescent bulb, because it might have higher or lower resistance than the incandescent bulb depending on what type and configuration of LEDs are used. " is respectfully disagreed.

In response to Appellant's argument, it is respectfully submitted that the circuit of Eggers' would match the resistance of the incandescent bulb regardless of the type and configuration of LEDs being used since the overall resistance depends on the combination of the at least one LED (22, 24, 52, 54, 88, 90, ...) and the load (i.e., compensation block(s) 20, 64, 57, 86, 89) and in order to match the luminance the at least one LED (22, 24, 52, 54, 88, 90, ...) to that of an incandescent bulb, Egger teaches of trimming or tuning the resistor values and/or appropriately selecting the type and current diodes that are included in the load (i.e., compensation block(s) 20, 64, 57, 86, 89) (Figs. 3, 4, 6, 8; abstract; Col. 1, lines 5-33; Col. 2, lines 8-19; Col. 6, lines 8-28; Col. 4, lines 60-64; Col. 5, lines 22-28).

Therefore, as discussed above, Egger anticipates claims 39-48.

Appellant's argue that Eggers does not claim an LED bulb or circuit to match, mimic, or approximate the impedance/resistance requirement of an application, the bulb including at least one LED and a load" as required in claims 49-59 (see appellant's brief page 3, paragraph 2).

In response to Appellant's argument, it is respectfully submitted Eggers discloses a bulb (i.e., LED circuit (20, 57, 86, 89) including LEDs (22, 24, 52, 54, 88, 90)) (see Figs. 2-6 and 8).

The disclosed bulb (i.e., LED circuit (20, 57, 86, 89) including LEDs (22, 24, 52, 54, 88, 90) is for a replacement of an incandescent bulb (see Figs. 2-6 and 8; Col. 6, lines 8-21). Therefore, Egger's LED circuit (20, 57, 86, 89) including LEDs (22, 24, 52, 54, 88, 90) is an LED bulb as required in the instant application. If it is not an LED bulb then it can not be used as a replacement for an incandescent bulb which contradicts the invention of Egger.

Furthermore, Eggers discloses the LED bulb or circuit (i.e., LED circuit including LED light source used as replacement for an incandescent bulb) to match, mimic, or approximate the impedance/resistance requirement of an application as discussed above in paragraph 9a (in addition, see Eggers' Col. 6, lines 14-21). Therefore, the disclosed LED circuit including LED light source as disclosed by Egger is an LED bulb as claimed in the instant application because Egger clearly teaches since it is used as a replacement for an incandescent bulb.

Appellant's construe that it is extremely unlikely that Eggers circuit would match, mimic, or approximate the resistance of the incandescent bulb if the circuit of Eggers' were used to replace incandescent bulb, because it might have higher or lower resistance than the incandescent bulb depending on what type and configuration of LEDs are used. " is respectfully disagreed.

In response to Appellant's argument, it is respectfully submitted that the circuit of Eggers' would match the resistance of the incandescent bulb regardless of the type and configuration of LEDs being used since the overall resistance depends on the combination of the at least one LED (22, 24, 52, 54, 88, 90, ...) and the load (i.e., compensation block(s) 20, 64, 57, 86, 89) and in order to match the luminance the at least one LED (22, 24, 52, 54, 88, 90, ...) to that of an incandescent bulb, Egger teaches of trimming or tuning the resistor values and/or appropriately selecting the type and current diodes that are included in the load (i.e.,

compensation block(s) 20, 64, 57, 86, 89) (Figs. 3, 4, 6, 8; abstract; Col. 1, lines 5-33; Col. 2, lines 8-19; Col. 6, lines 8-28; Col. 4, lines 60-64; Col. 5, lines 22-28).

Therefore, as discussed above, Egger anticipates claims 49-54.

As to claims 56-59, claims 56-59 are not rejected in view of Egger. Therefore, the statement by appellant that Egger does not anticipate claims 56-59 is correct.

Appellant's argue with respect to the obviousness-type double patenting rejection that Eggers does not claim basic invention claim in claim 49.

In response to Appellant's argument, it is respectfully submitted that the issued patent discloses all the structural limitation as required in claims 56-59. The only obvious difference between the issued patent '636 and the claimed invention is that the issued patent '636 does not discloses built in or attachable load/resistance to match, mimic, or approximate the impedance/resistance requirements as claimed in claim 49. However, Egger discloses an LED bulb (i.e., LED circuit including LED light source) a built in or attachable load/resistance (i.e., LED circuit) to match, mimic, or approximate the impedance/resistance requirements of the second bulb (i.e., incandescent bulb) as claimed in claim 49 (Figs. 3, 4, 6, 8; Col. 1, lines 5-33; Col. 2, lines 8-19; Col. 6, lines 8-28).

Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Led light module of the issued patent '636 by providing a built in or attachable load/resistance (i.e., compensation block(s) 20, 64, 57, 86, 89) as taught by Eggers' for the purpose of matching the luminance to that of a second bulb over a wide range of input currents or voltages as taught by Eggers' for no other reason than matching, mimic, or

approximating the impedance/resistance requirements for which the second bulb (i.e., incandescent bulb) is used.

Thus, the obviousness-type double patenting rejection as discussed above is proper.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

(12) Conclusion

Claims 39-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Eggers; and Claims 49 and 56-59 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5, 9, 12, 14 and 16 of U.S. Patent No. 6,371,636 in view of Eggers for the reasons as set forth above.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

EPHREM ALEMU

Conferees:

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EA
11-20-07